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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,057	09/12/2003	Georg Mayer	944-004.035	8340

4955 7590 12/02/2008

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EXAMINER

ROBERTSON, DAVID

ART UNIT

PAPER NUMBER

2121

MAIL DATE

DELIVERY MODE

12/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/662,057

Applicant(s)

MAYER, GEORG

Examiner

Dave Robertson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is a Final office action in response to Applicant's reply of 8/22/2008. Claims 1-19 are pending.

Response to Amendment

2. Applicant amends claim 12 to address rejections under 35 U.S.C. 112 and 101. Accordingly, the rejections are withdrawn.
3. Applicant amends claims 1, 13, and 15 removing "or" between limitations expressed in the alternative, to "and otherwise" expressing limitations in the alternative.
4. Claims 18 and 19 are added to embody the apparatus of claims 15 and 16 in "means for" language.

Response to Arguments

5. Applicant's arguments filed 8/22/2008 have been fully considered but they are not fully persuasive:

Applicant argues that removal of "or" in the *receiving a notification...* step of claim 1 no longer presents the limitations in the alternative (Remarks, pg. 8) and that because Du (US Pat. 6,823,357) "does not require or depend upon simultaneous user access", and because Du is very cumbersome, the present invention which determines what event notifications have been sent prior to accessing the system, is distinguished over Du in that it does *not* notify the user about calendar events that have already passed by the time the user accesses the system (Remarks, pg. 8).

However, in the limitation *receiving a notification...* changing "or" to "and otherwise" does not change that the expression of the two actions is in the alternative. The limitation at issue: *receiving a notification...for a calendar event... if an alarm is triggered before user accessing, and otherwise receiving a notification...if no alarms were triggered...before user accessing*, is a statement of alternatives. A method that performs one prong of the alternative meets the limitation where the alternative condition is always true. Notwithstanding, whether or not an alarm is triggered prior to the user accessing, a notification is received regardless, and as the notification itself is just that, a *notification* (a message, text, a signal, etc.), a teaching of *receiving a notification* upon the user accessing meets the limitation as either at least one alarm is triggered or no alarms are triggered covers the two possible alternatives. Therefore, that Du does not notify the user about calendar events "not triggered" before user accessing is moot if Du sends a notification upon user accessing, and if even requiring a "no alarm" notification to meet the claim, such "ok" notifications are routine in the art when conditions for alarm *do not* exist when a user is accustomed to receiving alarms when conditions do exist.

Accordingly, the grounds of rejection as in the prior office action are updated for the amended and newly added claims.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Du et al (US Pat. No. 6,823,357).

The present invention discloses a method of providing a user a notification about a calendar based event using the session initiation protocol (SIP), an internet-based, industry standard for communication of data between application software at the application layer of the Open Systems Communication (OSI) network model (Specification, pages 1-3), including providing user notifications when the user connects or is already connected through a terminal to a network capable of providing notifications and calendar-based event information.

Du discloses automated, internet-based methods and a system for providing users notifications about calendar-based events using application-to-application internet-based protocols, and including providing a user notification when the user connects or is already connected through a terminal to a network capable of providing the notifications (see Summary).

Examiner notes to Applicant that claims in examination are to be given their broadest reasonable interpretation. See MPEP 2106 Patent Subject Matter Eligibility. Examiner also notes that several limitations in the claims are presented in the

alternative ("or"). Broadest reasonable interpretation requires that limitations in the alternative read on prior art meeting either of the listed alternatives.

Specifically with respect the claims as presented:

Claim 1

Du teaches a method for a user to receive an alarm about a pending calendar event, or an overdue to-do, from an electronic calendar system that serves at least the user (see Abstract and Summary esp. column 2 from line 6 and column 4 from line 15 with regard to sending an update message signal to notify user of updates to scheduled calendar events, consistent with the disclosure of the present information in providing the user with notifications when information about calendar events change), comprising:

accessing a network that connects a user terminal to the calendar system (see at least column 3 from line 3);

sending a subscribe request for the at least one alarm regarding at least one calendar event (see at least column 3 from line 23: user subscribes to Subscribe Calendar);

Du does not expressly teach *receiving a notification in response to the subscribe request, said notification indicating at least one already triggered alarm for a currently ongoing calendar event if such an alarm was already triggered and otherwise said notification notifies that no alarms were triggered before said accessing*. However, as claimed, the present invention sends a notification regardless of whether or not an alarm has triggered prior to user accessing. And, as the notification itself is a message it amounts to non-functional data and what information it may contain provides no

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structural or material change to the claim invention, any result of a difference in the content of the notification is entirely on the interpretation and will of the received user. Therefore, as Du teaches sending notifications in response to changes in updated events (column 4 from line 15 changes in a calendar event is, broadly interpreted, an "alarm") and an email interface (column 6, lines 51-60) for forwarding email notifications to subscribers notifying them that their personal calendars have been updated.

Official notice is taken as old and well known in the art to send notifications to users when nothing has changed. That is, where users upon accessing a system may come to expect a notification if some event requires attention, it is old and well known in the case of no event needing attention to send them a notification that everything is "OK". As Du is capable of generating and receiving notifications upon a change in event upon user accessing (column 4, line 15), and forwarding such notifications to users (column 6, lines 51-60), It would have been obvious to one of ordinary skill to further notify users if *no change in calendar events* has occurred, as this would have relieved the user's anxiety of perhaps wondering whether calendar event changes had in fact been checked by the system, thereby leading to greater confidence that notifications on changes are correct and complete when received.

Claim 2

Du teaches wherein the subscribe request is sent each time the user terminal accesses the network, or is sent before the accessing step (see column 3 from line 34 and column 4 from line 46: describing users subscribing to Subscribe Calendar to receive information about subscribed calendar events *before* (prior to) the user

accesses the network; and column 4 from 46 allowing non-automatic (not previously subscribing) users to subscribe upon receiving information about calendar events, i.e. subscribing *after* accessing the network).

Claim 3

Du teaches receiving at least one further notify message describing an alarm that is triggered while the user terminal has access to the network (see column 4 from line 15 and column 6 from line 51 (email interface): emailed notifications generated in response to change in subscribed calendar information sent while user terminal is connected to the network are received by user while the user terminal has access to network).

Claims 4 and 9 recite the method of claim 1 wherein the subscribe request utilizes and is formatted based on a session initiation protocol (SIP), wherein content is defined by a SIP event package, and further (claim 9), where the event package includes extensible markup language (XML). Du does not expressly teach the use of *these particular internet standards* SIP and XML to subscribe to and to format calendar event information.

However, Internet standards play a significant role in data communications on the internet, allowing different systems from different vendors to communicate information over the internet by accepted industry standard protocols. This “interoperability” benefits the user by increasing the options for users of different software to subscribe to common and useful internet-based services. Du expressly teaches that the Subscribe Calendar Service exchanges calendar information with other

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commercially available, internet-accessible electronic calendar software, e.g. Microsoft Outlook, Yahoo Calendar (see column 3 from line 40). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the Internet standards SIP and XML in the subscribe request and content formatting of Du because using these particular industry standards would have offered a protocol and format for implementation of the calendar event notifications, thus increasing user options for personal calendar software tools while benefiting from the common calendar event services such as that taught by Du.

Claim 5

Du teaches wherein the further notify message is sent substantially simultaneously to the user terminal and at least one other terminal, wherein the notification is sent only to one terminal which is the user terminal (see column 4 from line 36 teaching sending the user a notifying message and simultaneously updating the user's Internet calendar or other calendar service or software to incorporate change information to the user's calendar; see also column 7 from line 47 describing automatic email notifying user that personal has been updated).

Claim 6

Du teaches wherein the subscribe request is sent to a centralized calendar server (see column 3 from line 33: the "Subscriber Calendar Server" is a "centralized" calendar server).

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Claim 7

Du teaches wherein the subscribe request is sent to a respective server for the calendar corresponding to the user terminal (in Du, the "respective server" for the user is the "Subscriber Calendar Server", serving all users and as such is the server "corresponding to the user terminal").

Claim 8

Du teaches wherein the sending step and the receiving step are each followed substantially immediately by an "okay" (i.e. a data acknowledgement) response (see column 7 from 14: as with the present invention's disclosure of acknowledgement signals sent via SIP, the "Subscriber Calendar Server" sends a confirmation message signal (an "okay") in response to receiving a signal from the Subscriber Calendar Locator service).

Claim 10

Du teaches wherein the subscribe request is sent with a calendar tag in an event header, and wherein the subscribe request contains information about at least one pending calendar event (...it is inherent in Du that the notification of the update to the calendar event is "tagged" (identified) as a notification of an update to a calendar event; any communication failing to identify, i.e. "tag" with meta data its content and purpose, is inoperable in a data communication system carrying messages of other types of content (as in an email system or internet protocol).

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Claim 11

Du teaches wherein the notification contains an internet link to a corresponding calendar entry (see column 4 line 61).

Claims 12-19 recite computer programs and automated systems (means) for automating the steps of methods of claims 1-3 as above, and is similarly rejected for reasons given above and that Du expressly teaches computer automated methods and systems.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is (571)272-8220. The examiner can normally be reached on 8 am to 6 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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